IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) No.1524/1992

S.Harpreet Singh Chawla & Anr. ..... Plaintiff
! through : Mr.S.K.Luthra, Adv.
Mr.Pankaj Aggarwal, Adv.

Versus

$ Ceat Ltd. & Anr. ..... Defendants
^ through: Mr.K.R.Chawla, Adv.

CS(OS) No.974/1999

S.Harpreet Singh Chawla & Anr. ..... Plaintiff
! through : Mr.S.K.Luthra, Adv.
Mr.Pankaj Aggarwal, Adv.

Versus

$ Ceat Ltd. & Anr. ..... Defendants
^ through: Mr.K.R.Chawla, Adv.

CS(OS) No.1801/2001

S.Harpreet Singh Chawla & Anr. ..... Plaintiff
! through : Mr.S.K.Luthra, Adv.
Mr.Pankaj Aggarwal, Adv.

Versus

$ Ceat Ltd. & Anr. ..... Defendants
^ through: Mr.K.R.Chawla, Adv.

% RESERVED ON : 12-09-2006

Signature Not Verified
Digitally Signed By:AMULYA
Certify that the digital file and physical file have been compared and the digital data is as per the physical file and no page is missing.

DATE OF DECISION: 15-09-2006

CORAM:
* Hon'ble Mr.Justice Pradeep Nandrajog

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? yes
3. Whether judgment should be reported in Digest? yes

: **PRADEEP NANDRAJOG, J.**

1. Who in Delhi desires not to reside in Lutyen's Zone? Please do. But pay for it.

2. Defendant CEAT Ltd. earlier known as M/s. CEAT Tyres of India Ltd. took on lease premises bearing No.210-B, Golf Links, New Delhi. Agreed monthly rent was Rs.3,500/-. Registered lease deed dated 16.8.1975 was executed. Tenancy commenced with effect from 1.8.1975.

3. A plot of land admeasuring 904 sq.yds. was given municipal No.210, Golf Links. Two buildings were constructed thereon. Between the co-owners, a partition was effected. Plot was divided equally. One portion was assigned municipal No.210-B and the other 210-A. The

former fell to the share of the plaintiffs and the latter to the share of defendant No.2.

4. Thus, land comprised in premises No.210-B is 452 sq.yds. A building consisting of a ground floor, a first floor and a second floor stands constructed. Functionally the building is a composite unit. The ground floor has a drawing-dining, one bedroom with attached toilet, a kitchen, a store and a lobby. 3 bedrooms with attached toilets and a lobby is constructed on the first floor. Second floor has a single bedroom with an attached toilet.

5. With effect from 1.1.1980 lease was renewed at a monthly rent of Rs.4,375/-. Renewal is by an unregistered document.

6. Thus, on expiry of 5 years' period reckoned with effect from 1.8.1975, status of the defendant No.1 became that of a tenant from month to month.

7. After issuing a notice determining the tenancy, being notice dated 5.7.1991, plaintiffs who claim that property No.210-B came to their share on partition and property No.210-A went to the share of defendant No.2, instituted a

suit for possession against defendant No.1 on 3.9.1991. The suit was registered as Suit No.1001/93/91. Vide Ex.PW-3/4 decree in favour of the plaintiffs and against defendant No.1 was passed on 19.8.1999.

8. During pendency of the suit for possession, the 3 captioned suits were filed.

9. Suit No.1524/1992 was filed praying for mesne profits and damages on account of unauthorized use and occupation of the suit premises by defendant No.1. Mesne profits claimed is for the period 1.8.1991 to 31.3.1992. Damages in sum of Rs.70,000/- per month are claimed.

10. Suit No.974/1999 was filed on 29.4.1999 claiming mesne profits with effect from 1.4.1996 till 31.3.1999 @ Rs.1 lakh per month. Suit No.1801/2001 was filed on 29.8.2001 claiming damages with effect from 1.4.1999 to 7.7.2001 @Rs.1.25 lakhs per month.

11. Decree, Ex.PW-3/4, obtained by the plaintiffs in the suit for possession against defendant No.1 was affirmed in appeal vide judgment and decree dated 3.2.2001, Ex.PW-1/5. Second appeal being RSA No.49/2001 was dismissed by

this Court vide order dated 3.5.2001, Ex.PW-3/6.

12. Petition for Special Leave to Appeal against the decision of this court in the Regular Second Appeal was dismissed by the Supreme Court. On 7.7.2001, possession was delivered.

13. In the three suits, following issues have been framed:-

CS(OS)No.1524/1992:

"1. Whether the plaintiffs are entitled to mesne profits @Rs.70,000/- per month for the period 1.8.1991 to 31.3.92 as alleged?

2. Whether the suit is barred by Order 2 Rule 2 CPC as alleged?

3. Whether the suit against defendant No.1 is not maintainable because of change of name as alleged in para 1 of the Preliminary Objections of the Written Statement?

4. Relief."

CS(OS)No.1801/2001:

"1. Whether the plaintiffs are entitled to mesne profits @Rs.1,25,000/- per month for the period 1.4.1999 to 7.7.2001 together with interest @18% per annum thereon as alleged?

2. Whether the suit is barred by Order 2 Rule 2 CPC as alleged?

3. Whether defendant No.1 spent about Rs.20 lakhs to make tenanted house worth living as alleged. If so, to what effect?

4. Relief."

CS(OS)No.974/1999:

"1. Whether the plaintiffs are entitled to mesne profits @Rs.1 lakh per month for the period 1.4.1996 to 31.3.99 as alleged?

2. Whether the suit is barred by Order 2 Rule 2 CPC as alleged?

3. Whether the suit is not maintainable for want of demand notice as alleged in para 1 of the preliminary objections of written statement?

4. Relief."

14. Notwithstanding the fact that defendant No.1 has attempted to lead evidence that tenancy was not validly determined, in the teeth of Ex.PW-3/4, Ex.PW-1/5 and Ex.PW-3/6, finding in the judgment and decree dated 19.8.1999 passed in Suit No.1001/93/91 having attained finality, issue sought to be raised operates as res judicata against defendant No.1.

15. Holding that the tenancy was validly determined and that with effect from 1.8.1991, defendant No.1 had no authority to occupy the suit premises and holding that possession thereafter with effect from 1.8.1991 was without

authority of law, defendant No.1 was directed to be ejected from the suit premises. Said finding has attained finality.

16. In the teeth of the said finding it is obvious that with effect from 1.8.1991 status of defendant No.1 is that of a contumacious occupant of the suit property without authority of law. Retention of possession was unlawful.

17. Before deciding issue No.1 in the three suits, I propose to decide issues No.2 and 3 in all suits.

18. Are the three suits barred under Order 2 Rule 2 of the Code of Civil Procedure 1908?

19. Sub rule 1 of Rule 2 of Order II of the Code of Civil Procedure, 1908 reads as under:-

> "**2. Suit to include the whole claim. -** (1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court."

20. To understand Order 2 Rule 2 one has to understand what is meant by the expression 'cause of action' and what is meant by the expression 'whole of the claim'.

21. A plain reading of Order 2 Rule 2 shows that mandate of law is that in respect of a cause of action every suit shall

include the whole of the claim.

22. Cause of action has been explained or defined by judges in different opinions. Language may vary but content of each decision is that a cause of action is a factual situation, the existence of which, entitles one person to obtain from the other a remedy from a court of law. Contours of cause of action mean every fact, which, if traversed, it would be necessary for the plaintiff to prove the same in order to obtain a decree. (See *Bloom Dekor Ltd. Vs. Subhash Himmatlal Desai* (1994) 6 SCC 322 and *Sadanandan Bhadran Vs. Madhavan Sunil Kumar* (1998) 6 SCC 514).

23. The expression 'include the whole of the claim' under Order 2 Rule 2 means different reliefs which a plaintiff would be entitled.

24. A meaningful reading of the two phrases in their textual setting in Order 2 Rule 2, means, as observed by the privy council in the report published as *Payana Vs. Panna Lana* (1914) 41 IA 142 that the rule is directed to secure the exhaustion of reliefs in respect of a cause of action. As

explained, the rule does not require inclusion of different causes of action arising from the same transaction.

25. A guiding factor was highlighted in the report published as *Mohd. Khalil Khan vs. Mahbub Ali Miyan* AIR 1949 PC 78 by stating that when the question arises as to whether the cause of action in the subsequent suit is identical with that in the first suit, it has to be seen whether same evidence will maintain both actions.

26. Understood on the aforesaid legal principles, inevitable conclusion is that since right accrues to recover mesne profits each day illegal possession continues, it would be a case of continuing cause of action.

27. Learned counsel for the defendant, Shri K.R.Chawla, Advocate referred to Order 20 Rule 12 Code of Civil Procedure 1908 and attempted to make a point that in view of said provision, every suit which seeks recovery of possession of immovable property must include a claim for rent or mesne profits. If mesne profits are not prayed for, Order 2 Rule 2 of the Code of Civil Procedure would prohibit a second suit was the argument urged.

28. I fail to understand the logic of the argument. Order 20 of the Code of Civil Procedure 1908 deals with judgments and decrees. Rule 12 thereof deals with the power of the Court to pass a decree, if prayed for, in a suit for recovery of possession of immovable property and damages or mesne profits.

29. Order 2 of the Code of Civil Procedure 1908 deals with frame of suits.

30. Order 2 and Order 20 of the Code of Civil Procedure 1908 operate in their respective fields.

31. A Full Bench of the Punjab & Haryana High Court in the decision reported as AIR 1976 P&H 38, *Sadhoo Singh & Ors. Vs. Pritam Singh & Anr.* held that a subsequent suit for mesne profits was not barred under Order 2 Rule 2.

32. Faced with the situation, where earlier suit was for damages on account of the lessee holding over after expiry of lease and second suit for possession and mesne profits, Full Bench of the Bombay High Court in the report published as AIR 1972 Bombay 326, *Shankarlal Laxminarayan Rathi & Ors. Vs. Gangabisen Maniklal & Anr.* held that Order 2 Rule 2

did not bar the second suit. A similar view has been expressed by a Division Bench of this Court in the decision dated 24.2.2003 in FAO (OS)No.350/2002 *M/s. U.K. Paints Sales Vs. M/s. Madho Ram Budh Singh*.

33. I accordingly decide issue No.2 in the 3 suits in favour of the plaintiffs and against defendant No.1. I hold that the suits are not barred under Order 2 Rule 2 CPC.

34. Issue No.3 in Suit No.974/1999 and Suit No.1524/1992 have to be noted and rejected for the reason no law requires plaintiffs to serve upon defendant No.1 any notice of demand. As regards change of name, it is not in dispute that when premises were taken on lease, name of defendant No.1 was M/s Ceat Tyres of India Ltd. and on 10.7.1990 it was changed to M/s Ceat Ltd. It is unfortunate that counsel for the plaintiffs has not bothered to file an appropriate application for amendment in the memo of parties. However, this does not mean that the suit No.1524/92 has to be dismissed. Being a mere change in name, in exercise of my inherent powers I amend the memo of parties to correct name of defendant No.1 in Suit

No.1524/92 to M/s Ceat Ltd. However, counsel for the plaintiffs is directed to file an amended memo of parties within four weeks.

35. Defendant No.1 chose to remain in unauthorized occupation. It did so at its risk and cost. Defendant No.1 was fully aware that when tenancy was determined in the year 1991 it did not have protection of the Delhi Rent Control Act 1958 and therefore after it was served with a notice determining the lease, it had no right to occupy the suit property.

36. That takes me to issue No.1 in the three suits and issue No.3 in Suit No.1801/2001.

37. Needless to state, effect of issue No.3 in Suit No.1801/2001, if proved, that defendant No.1 spent Rs.20 lakhs to make the tenanted house worth living, would be to deny plaintiffs mesne profits relatable to the improvements made by defendant No.1.

38. Evidence pertaining to improvements made by defendant No.1 is the testimony of DW-1, Shri P.K.Tandon as also testimony of DW-2, Shri S. Ganesh.

39. DW-1, Shri P.K. Tandon employed as Assistant Manager (Administration) with defendant No.1 stated that defendant No.1 spent Rs.20 lakhs to make the property habitable.

40. Save and except a statement to this effect in examination-in-chief, PW-1 did not produce any documentary evidence, not even account books to sustain the said testimony.

41. Shri S.Ganesh, PW-2, stated that he was the sole proprietor of M/s. Woodland Interiors having its office at Mumbai. That from 21.4.1997 to 5.6.1997, defendant No.1 had awarded to him construction/renovation work pertaining to the suit premises. He offered 3 quotations, being Ex.DW-2/1 to Ex.DW-2/3. Vide Ex.DW-2/4, on 21.4.1997 he had submitted revised quotations. That work was awarded. On 7.6.1997, 1.7.1997 and 10.7.1997, he raised 3 bills being Ex.DW-2/5 to DW-2/7.

42. He deposed that besides him, one Mr. P.R. Sahni of P.R. Sahni Construction, also operating from Mumbai was awarded certain works. Shri P.R.Sahni raised bills which were Ex.DW-2/20 to Ex.DW-2/49. He stated that he had

seen P.R.Sahni preparing the bills. He stated that defendant No.1 made total payment in sum of Rs.73,570/- to Mr.P.R.Sahni. He stated that apart from the three bills, Ex.DW-2/5 to Ex.DW-2/7, he had raised other bills which were not traceable.

43. Photocopies of cheques issued by defendant No.1 and photocopies of ledger account maintained by him were proved by him as Ex.DW-2/8 to Ex.DW-2/19.

44. Ex.DW-2/1 shows that for painting, plumbing and electrical works, quotation of DW-2 was accepted by defendant No.1 in sum of Rs.5,67,400/-. Ex.DW-2/2 shows that quotation of PW-2 relating to dressing tables/side tables, repairing of cots etc. was accepted at a value of Rs.1,31,575/-. Ex.DW-2/3 shows that quotation of DW-2 for certain items of works, being laying kitchen granite platform, affixing 3 electrical accessories, a wash basin and providing false ceiling was accepted at Rs.80,800/-.

45. Quotations and bills need not be noted by me for their content in detail.

46. Pertaining to work stated to have been executed by

P.R.Sahni, Ex.DW-2/23 to Ex.DW-2/37 shows that he was paid for supplying rubber, foam, coir, curtain material, pillows and accessories for furniture items.

47. Evidence on record establishes that payments made to P.R.Sahni had nothing to do with the improvements in the building. Works executed by him related to furniture. Part work executed by DW-2 related to certain improvements in the building. Works awarded vide Ex.DW-2/1 pertained to supplying tables, chairs, dressing tables etc. Noting that few items in DW-2/2 related to tube-lights and electrical points, evidence establishes that not more than Rs.4 lakhs was spent on renovation work in the building.

48. But, Ex.DW-2/23 to Ex.DW-2/36, and in particular Ex.DW-2/23 and Ex.DW-2/25 show that defendant No.1 was converting the residential house into a guest house. This is evident from the bills of the contractor, Shri P.R.Sahni, wherein the subject matter of the bills is referred to as under:-

> "Bill for sofa, chair, bed, curtain work carried out at your Golf Link Guest House, Delhi."

49. Learned counsel for the defendant referred to the decision reported as AIR 1969 Delhi 59, *Hindustan Steel Pvt. Ltd. Vs. Usha Rani* to urge that owner was not entitled to mesne profits in respect of improvements made by the person in wrongful possession.

50. Defendant No.1 entered possession in the year 1975. The so called renovations are of the year 1997. It is obvious that a habitable tenament was handed over to defendant No.1. By 1991, after determining the lease, suit for possession has been filed. As noted above, suit was decreed on 19.8.1999. Defendant No.1 had no business to effect any improvements for which no consent of the plaintiffs was taken. Aware of its status, defendant No.1 chose to effect improvements. But, these were to convert user of a building meant for domestic residence to a guest house.

51. No evidence has been led by defendant No.1 that sum of Rs.4 lakhs spent on improvements in the building were of a kind which enhanced the rental value when plaintiffs let out the building as a residence to a third party.

52. That apart, since I would be referring to rentals of

adjoining properties let out for residential purposes, value addition made by defendant No.1 loses significance.

53. I accordingly decide issue No.3 in suit No.1801/2001 by holding that defendant No.1 spent Rs.4 lakhs to make changes in the building when user was changed to that of the company guest house. Changes were without consent of the plaintiffs. Rs.4 lakhs was spent. There is no effect of said fact.

54. Mesne profits have been claimed for 3 periods. They are:-

(a) 1.8.1991 to 31.3.1992,
(b) 1.4.1996 to 31.3.1999, and
(c) 1.4.1999 to 7.7.2001.

55. Learned counsel for the defendant urged that in view of the law laid down in the report published as AIR 1997 SC 2262 *Chanderkali Vs. Jagdish Singh* and 1979 Mh.L.J. 22 *Nathumal Chandanmal vs.Damodar Prabhat*, defendant No.1 became an unauthorized occupant only when decree of ejectment was passed i.e. 19.8.1999 therefore mesne profits prior thereto could not be awarded. Counsel stated that till decree of ejectment was passed, defendant No.1 paid the

agreed rent.

56. Last paid agreed rent was received by the plaintiffs pursuant to an order passed in the suit for ejectment clarifying that receipt of said rent would be without prejudice to the stand of the plaintiffs.

57. Decisions cited by learned counsel for the defendant No.1 deal with a tenant protected under the Rent Control Legislation applicable in the area where tenanted premises was situated. Holding that where contractual tenancy is determined, if Rent Control Legislation operates, status of the tenant gets altered to that of a statutory tenant and liability towards rent is to pay the standard rent as per the applicable Rent Control Legislation.

58. Instant tenancy had no protection of the Delhi Rent Control Act 1958 for the reason, by virtue of amendments made in the year 1988 to the Delhi Rent Control Act 1958, where rent was above Rs.3,500/-, Delhi Rent Control Act 1958 ceased to apply to the said premises. Instant property was on rent of Rs.4,375/- with effect from 1.1.1980. For the period for which claim for mesne profits has been raised,

Rent Control Law did not apply to the suit property.

59. Thus, defendant No.1 is liable to pay mesne profits/damages as are proved.

60. Evidence of mesne profits is in relation to rent received qua other properties and the suit property when the same was let out on 3.12.2002.

61. Ex.PW-3/8 is a lease deed dated 27.2.1998 pertaining to the first floor and second floor of property bearing municipal No.20, Golf Links. Monthly rent is Rs.1.5 lakhs. Tenancy is for 3 years. 3 years' advance rent has been received in lump sum.

62. From testimony of PW-2, Shri D.C. Singal, House Tax Inspector, NDMC, it is evident that plot area of 20 Golf Links is 1250 sq.yds.

63. Ex.PW-3/9 is a lease deed dated 9.7.1997 pertaining to property No.117 Golf Links. Ground floor thereto has been let out at a monthly rent of Rs.1.05 lakhs. Tenancy is for 3 years. Entire rent has been received in advance, lump sum.

64. From the testimony of DW-2, it has transpired that plot size is 740 sq.yds.

65. Ex.PW-3/11 is a lease deed pertaining to property No.182, Golf Links. Having plot area 375 sq.yds. Lease is dated 7.7.1999. A bedroom with drawing/dining and a kitchen as also a bath room on the ground floor, 3 bed rooms with attached toilets on the first floor, one bed room on the second floor + two servant quarters and a garage have been let out for a period of 15 months. Rent is Rs.1.25 lakhs per month. Entire rent has been received by the landlord in lump sum.

66. Ex.PW-1/1 is a lease deed dated 16.11.2000 pertaining to ground floor of property bearing No.177, Golf Links. Lease is for 15 months. Lease rental is Rs.1.5 lakhs. Entire amount has been received in lump sum. As per testimony of PW-1, Shri Neeraj Chawla a co-owner of the property, who proved the lease, area of the plot is 375 sq.yds.

67. Shri K.R.Chawla, learned counsel for the defendant No.1 submitted that the lease deeds were not proved as per law, in that, original lease deeds were not brought on record and the executants were not examined.

68. Lease pertaining to property No.177 has been proved

by a co-owner. Certified copy of the lease has been exhibited as Ex.PW-1/1. In cross examination it was not put to the witness that the certified copy does not conform to the original. Thus, Ex.PW-1/1 is a validly proved document.

69. Ex.PW-3/8, Ex.PW-3/9 and Ex.PW-3/11 have been proved by the first plaintiff who has stated that he has obtained certified copies from the Sub Registrar. In cross examination no suggestion has been put to the witness that the documents tendered by him are not true copies of the originals. Be that as it may in his examination-in-chief plaintiff has deposed that first and second floor of property No.20 Golf Links was let out on 27.2.1998 at a monthly rent of Rs.1.5 lakhs. He has further deposed that ground floor of property No.117 Golf Links was let out at a monthly rent of Rs.1.05 lakhs with effect from 1.5.1997. He has further deposed that ground floor of property No.177 Golf Links has been let out with effect from 16.11.2000 at a monthly rent of Rs.1.5 lakhs. He has further deposed that property No.182 Golf Links was let out on 7.7.1999 at a monthly rent of Rs.1.25 lakhs. In cross examination except for asking

questions pertaining to the year of construction of the said properties, no challenge has been made to his testimony regarding letting of the properties and the rent realised. However, whether or not the lease deeds of other properties were duly proved or not need not bother me for the reasons, as would be noted hereinafter I would be ignoring the rental data flowing from the said lease deeds. But, I would be failing to note that vide sub-section (2) of Section 74 of the Indian Evidence Act,1872, public records kept of private documents is a public document and in terms of Sections 76 and 77 of the Indian Evidence Act production of certified copies of these documents would be proved of the contents of the document.

70. There is independent corroborative evidence to show revision in rent of property No.20 and 117 Golf Links. PW-2, Shri D.C. Singal, House Tax Inspector, NDMC stated that rateable value of property No.20 Golf Links and 117 Golf Links was revised from time to time. Qua property No.20 Golf Links he stated that from 1.4.1993 rateable value was enhanced from Rs.3 lacs per annum to Rs.4.2 lacs per

annum and from 1.7.1995 it was further enhanced to Rs.5.04 lacs. Finally, from 1.4.1998 it was enhanced to Rs.18,12,468/-. For property No.117 the rateable value was enhanced from Rs.1.32 lacs to Rs.7.98 lacs from 1.4.1993. It was further enhanced to Rs.18.63 lacs from 1.4.1996 and to Rs.19.23 lacs with effect from 1.4.1997.

71. Rateable value of rented properties was being determined by NDMC on basis of actual rent receipts. Thus, revision of rateable value of the property No.20 and 117 Golf Links shows constant increase in rent in the area.

72. After suit premises was vacated by defendant No.1, vide lease dated 3.12.2002, it was let out for a period of 2 years at a monthly rent of Rs.80,000/. Lease deed is Ex.PW-3/7.

73. Following information may be tabulated :-

Sl.No.	*Plot No.with size in sq.yds.*	*Date of lease*	*Rent per month*	*Extent of accommodation*
1.	20/1250	27.2.1998	Rs.1.5 lacs	FF+SF
2.	117/740	9.7.1997	Rs.1.05 lacs	GF
3.	182/375	7.7.1999	Rs.1.25 lacs	GF+FF+SF
4.	177/375	16.11.2000	Rs.1.5 lacs	GF
5.	Suit Property	3.12.2002	Rs.80,000/-	Entire House

74. No discernible rent showing a consistent pattern is emerging. Plot No.182 having plot size 375 sq.yds. has fetched a rent of Rs.1.25 lacs per month for the three floors in July,1999 and plot No.177 having same size has fetched a rent of Rs.1.5 lacs per month for only ground floor. Plot No.20 having plot size 1250 sq.yds. has fetched a rent of Rs.1.5 lacs per month on 27.2.1998 for the first floor and second floor. Plot No.117 having plot size 740 sq.yds. has fetched a rent of Rs.1.05 lacs only for the ground floor on 9.7.1997. Larger plots have fetched much lower rents. It is obvious that nature of construction has played a dominant role viz-a-viz extent of accommodation and plot size. Therefore, I cannot rely upon the rental data of other properties. Even otherwise where intrinsic evidence is readily available it would be a sound principle to rely upon the intrinsic evidence and eschew extrinsic evidence.

75. Suit property was let out on 3.12.2002 at a monthly rent of Rs.80,000/-. Suit property admeasures 452 sq.yds. This lease as of 3.12.2002 shows that the suit property had disadvantages viz-a-viz property No.177 and 182 Golf

Links. The rent of the suit property is comparable with the rent of property No.20 and 117 Golf Links. Since suit property itself was let out on 3.12.2002 it would be safe to rely upon the said rent to determine the rent which could have been fetched for the suit property from time to time.

76. As of 1.1.1980 rent of the suit property was Rs.4375/- per month. It rose to Rs.80,000/- per month on 3.12.2002. Reckoned from 1.1.1980, 3 years period would expire on 1.1.2003. Thus, increase in rent per year comes to Rs.3300/- (approx.). Compounded annually, percentage increase each year is 13.11%.

77. Thus, rent as of 1.1.1991 comes to Rs.40,675/- per month. As of 1.1.1992 rent comes to Rs.43,975/- per month. As of 1.1.1996 the monthly rent comes to Rs.57,175/-. As of 1.1.1997 monthly rent comes to Rs.60,475/-. As of 1.1.1998 monthly rent comes to Rs.63,775/-. As of 1.1.1999 monthly rent comes to Rs.67,075/-. As of 1.1.2000 monthly rent comes to Rs.70,375/- and as of 1.1.2001 monthly rent comes to Rs.73,675/-.

78. Mesne profits have to be determined for three periods,

being 1.8.1991 to 31.3.1992, 1.4.1996 to 31.3.1999 and 1.4.1999 to 7.7.2001.

79. During these periods last agreed rent has been paid at the rate of Rs.4375/- per month. Accordingly, I determine the mesne profits per month as under :

a) 1.8.1991 to 31.12.1991 ... Rs.40,675/- less Rs.4375/-

b) 1.1.1992 to 31.3.1992 ... Rs.43,975/- less Rs.4375/-

c) 1.4.1996 to 31.12.1996 ... Rs.57,175/- less Rs.4375/-

d) 1.1.1997 to 31.12.1997 ... Rs.60,475/- less Rs.4375/-

e) 1.1.1998 to 31.12.1998 ... Rs.63,775/- less Rs.4375/-

f) 1.1.1999 to 31.12.1999 ... Rs.67,075/- less Rs.4375/-

g) 1.1.2000 to 31.12.2000 ... Rs.70,375/- less Rs.4375/-

h) 1.1.2001 to 7.7.2001 ... Rs.73,675/- less Rs.4375/-

80. The aforesaid cover the period for the three suits.

81. I award simple interest @ 10% per annum on the mesne profits awarded from the first day of the succeeding calender month for each month during which defendant No.1 remained in unauthorized occupation till date of realisation.

82. The three captioned suits stand decreed as per para 79 and 81 above.

83. Plaintiffs shall be entitled to costs.

84. Decree sheet be drawn after the plaintiffs deposit the requisite court fee.

September 15, 2006
dk

(PRADEEP NANDRAJOG)
JUDGE